

Louisiana Magnolia, Adopted as the Official State Flower in 1900

Economic Growth Advisory Council
Environment Working Group

Final Report (January 2008)

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January 3, 2008

Governor-Elect Bobby Jindal
P.O. Box 25056
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Dear Governor-Elect Jindal and fellow members of the Advisory Council:

We are pleased to submit to your transition process this list of thoughtful observations and recommendations that have been gathered through the excellent collaborative actions of your appointed Environmental Working Group and the speakers who gave of their valuable talents and time.

The Louisiana Department of Environmental Quality plays a pivotal role in the economic operations of our state. When it operates efficiently and effectively, the business climate that it regulates is fair, predictable, regionally and nationally competitive, and, very importantly, protective of our valuable natural resources and the health and well-being of our citizens. A well operated LDEQ is vital to Louisiana's recovery and to setting a path to prosperity.

You will see that we addressed many needs that will strengthen LDEQ, facilitate the operation of our business community, provide wisely for our citizens, and set a progressive mood for addressing emerging challenges.

It is our contention that the Secretary of LDEQ should be a key component of the economic planning and growth team for your administration. A great leader in the department will place LDEQ in a leadership role for many aspects of our state government's operations.

We are all very excited about your vision for our state, and we remain ready to help you in any way during your tenure as our chief executive. Please do not hesitate to call upon our members as you see fit.

Thank you for honoring the members of our group with the responsibility to work for the betterment of our great state.

Sincerely,

Robert A. "Bob" Thomas
Chair

Timothy W. "Tim" Hardy
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Note: All members of the Working Group on Environment were provided the opportunity to contribute to and review this report. However, it should not be assumed that every member subscribes to all recommendations, observations, and findings.

Introduction

The Louisiana Department of Environmental Quality is designed to provide service to the people of Louisiana through comprehensive environmental protection in order to promote and protect health, safety and welfare while considering sound policies regarding employment and economic development. The current state of the environment in Louisiana involves a combination of significant concerns along with major opportunities for improvement. Prudent management of LDEQ is crucial to the quality of life of Louisiana's citizens and the long-term security of the state.

There are several important issues facing a rapidly growing department that is barely twenty years old. First, LDEQ has to maintain a balance between environmental protection and the principles of economic development and workforce/employment. As we move into a new era of state government, there are valid questions for the direction of a department with almost 1,000 employees and a \$208 million budget.

We have been blessed with a state that is well positioned to capitalize on global demand for emerging technologies, such as ethanol, nuclear power, solar power, wind power, marine/tidal energy, and fuel cells. Monitoring Louisiana's rich natural resources is not an easy task and LDEQ is there to foster a policy to create a fair, predictable method of dealing with all stakeholders.

The Governor-Elect's transition process has produced various ideas and opinions by members of the Advisory Council that will help shape the new administration's policy as well as its relationship with new and current personnel of LDEQ. The following report will highlight some of the challenges facing LDEQ, including its role in environmental protection, economic development, adequate funding, and finding realistic solutions to complex problems. This report can be used as a guidepost so that the people of Louisiana can continue to enjoy the state's abundant resources.

Process Summary

The purpose of the Governor-Elect's Advisory Council on Economic Development and its working group on environment was to explore the issues raised in Governor-Elect Jindal's campaign documents on a deeper level; to seek input from experts and stakeholders in Louisiana's environment and environmental regulation; and to make specific recommendations on how Louisiana can improve its environmental regulation and management to protect the environment and support economic growth. The group was charged with making recommendations to Governor-Elect Jindal on how the state could strengthen its environmental resources and regulation in general; secure resources necessary to meet environmental needs; improve accountability, cost, and timeliness; and partner the public and private sectors to protect the environment and spur economic development in Louisiana.

Governor-Elect Jindal appointed 24 individuals from around the state to serve on the environment working group. Members included business and industry leaders, university

researchers, government officials, and other experts and stakeholders in environmental issues. The council convened for a public hearing on December 17 in Baton Rouge. The hearing included an overview of Louisiana's environmental quality, analysis of current environmental challenges and opportunities, linkages between the environment and economic development, and focus on environmental regulatory policies and practices in Louisiana.

What follows is a summary of this group's key issues, themes, and findings, as well as specific recommendations on how Louisiana can strengthen its quality of life and economy through strategically protecting and managing its environment.

The Environment in Louisiana

Due to its geographic situation and natural assets, Louisiana is home to some of the most diverse economic interests in the United States. In addition to an enormous port system, we have vast timber forests, large oil refineries, and manufacturing plants whose success is vital to our future. These interests have a widespread relationship to our environmental quality and the way our state has evolved for generations. While we have improved in some areas, new challenges are present today that we could not have imaged just a short time ago.

Like many states, Louisiana has a history of exploiting environmental resources and passing along many of yesterday's problems to the current generation. While our state's environmental management practices have been strengthened substantially over the past three to four decades (e.g., air quality has improved significantly since the 1970s), there are new challenges to go along with many existing ones. The people of Louisiana need to know that the state can provide a safe environment and preserve our rich culture and natural endowment. Citizens need to know the state is doing everything possible to ensure a high quality of life. A well-managed LDEQ will ensure that our environmental resources will be maintained, if not improved, with environmental regulatory policies and practices. If LDEQ does not execute its mission effectively, then many businesses will not invest here and many families will experience a diminished quality of life. While there has been marked progress in solving our environmental problems in the last few decades, many threats still remain that have the potential to impact our environmental health, social welfare, and economic growth. The LDEQ has the responsibility to ensure our resources are maintained and the quality of life for all Louisianans continues on a path of improvement.

Short History of the Louisiana Department of Environmental Quality

It is important to understand the role and need for a cabinet-level department to ensure that Louisiana carefully manages its environmental resources and quality. Louisiana recognizes the need to have a Department of Environmental Quality that protects and values our resources.

Shortly after Louisiana became a state in 1812, it formed the first statewide Department

of Health in the country, which later became the forbearer for the current Department of Environmental Quality. At the time disease was a major concern in the low-lying areas of the delta, including a significant threat to New Orleans, which was the main corridor for transportation for nearly half the country. An uncontrolled and unregulated Mississippi River allowed diseases to easily enter the country from foreign boats and ships, and could lead to annual flooding. In addition, the living and sanitary conditions of the time would be considered deplorable today and would become a breeding ground for diseases. Plague and yellow fever were unpredictable consequences of the conditions and were a constant struggle to control. It was not uncommon at the time for people to drink out of public wells, dump refuse in rivers and streams, and to burn unwanted waste in the streets.

Around the turn of the century more people began to notice the environmental effects of laissez-faire regulation, including the disappearance of wildlife and forests. Flooding also became worse with time, famously exemplified by the great flood of 1927 (though some damage was due to engineering defects). The state government took steps to more rigorously regulate the land, water, and air by creating boards to deal with some of the specific problems, but kept most functions under the auspices of the Department of Health. For example, the Division of Pollution was created in the 1950s and Radiation Board in the 1960s. It was not until 1984 that the Louisiana Department of Environmental Quality was created and named its first secretary.

Key Issues, Themes, and Findings

The Importance of Linking Economic Development to the LDEQ

Louisiana is well positioned to realize significant economic growth through many existing and new market opportunities that are directly or indirectly related to the environment, including the modern "water economy." With this possibility to be a leader in economic activities with deep connections to the environment, Louisiana needs to continually redefine and improve its relationship with the environment and environmental challenges (e.g., coastal erosion, effects of climate change).

Louisiana cannot improve its environment without creating economic opportunities, something our state has been slow to recognize, but with strong leadership, finally may embrace. For example, the field related to the energy sector, which is regulated in part by the LDEQ, runs the economic engine of the state; in order for us to take full advantage of energy-related opportunities, our state must address new environmental concerns and LDEQ must operate as a first-class organization. Currently, our diverse energy-related economic interests include a pipeline transportation sector, natural gas processing, natural gas processing and storage, electrical power, petrochemical, and refineries. These energy sectors, including the companies that service them, make up approximately one-third of our state economy. We are either the source or major distribution center for refined products that serve a significant portion of the United States. Louisiana plays a central part in the natural gas circulation system for this country through the location of our ports and resources off our coast. We are home to some of the world's largest petrochemical facilities that take fossil fuels and turn them into other products to fuel the country.

Furthermore, Louisiana has an excellent assortment of environmental management and engineering firms already located in state, and is in a great position to develop and refine new environmental technologies. Also, many new "environmental" fields are emerging that have the potential to bring tens of thousands of jobs in Louisiana and billions of dollars in new investments if the state can provide the right incentives. Such opportunities include renewable energy and alternative fuels (e.g., sugarcane-based ethanol), coastal restoration, green house gas (GHG) sequestration, energy conservation, and nuclear power. These fields are growing at a rapid clip of about 40 percent a year.

Environmental regulation has become increasingly complex. If Louisiana can achieve success in the regulation arena then it can gain a competitive advantage as we try to lure new economic development. For instance, we need to ensure that our application and permitting processes are easy to navigate by all potential investors. New projects and expansions depend on being the first to market (i.e., timing is critically important). If the environmental permitting process is not clearly understood or if the time to obtain permits is relatively long, Louisiana risks losing major economic development projects to other states with clearer and/or more timely regulatory processes. Accordingly, Louisiana's environmental regulations and their application need to be in line with other states (and ideally more efficient) such that Louisiana at least competes on a level playing

field. Additionally, Louisiana needs to keep up with changes in environmental regulatory approaches, including a trend towards more flexible, market-based approaches compared to traditional "command and control." Finally, Louisiana needs to ensure that its environmental regulations are predictably and consistently enforced, and that they provide a sound economy and a clean environment for her citizens.

LDEQ Funding Now and in the Future

LDEQ's overall budget has steadily grown in the last 23 years with the 2007-2008 fiscal year slated at \$208 million, including state general funds (8 percent), federal funds (17 percent), statutory funds (75 percent), and self generating funds (less than one percent).

In all there are nine specially-dedicated funds that are the main sources of revenue for LDEQ. They each have a distinct purpose and have been organized with different responsibilities. For example, the Motor Fuel Underground Storage Tank Trust Fund was established to reimburse eligible participants in the remediation of underground contaminated storage tanks. LDEQ also handles the Municipal Facilities Fund that makes low-interest loans to local governments to finance sewer wastewater treatment facilities. A special fund called the Brownfield Revolving Loan Fund provides for low-interest loans for the clean-up of Brownfield sites within the state. Similarly, the Hazardous Waste Site Cleanup Fund is used for remediation of inactive and abandoned hazardous waste sites. The Hazardous Waste Site Cleanup Fund is typically matched with superfund projects. There is also an Environmental Trust Fund, a keep Louisiana beautiful fund, a Waste Tire Management Fund, and an Oil Spill Contingency Fund. If Louisiana is to move forward, these funds must work efficiently and effectively to achieve their goals in the best interest of the citizens.

There are several other issues that may put a strain on LDEQ's budget. Some of these issues include a decrease in federal funds, new demands given to the state by the EPA, fee normalization (i.e., uniformity in fees charged between media and similar activities), and trust fund sustainability. Part of the challenge is that there is often little or no time to plan for changes in the state or federal laws to adjust to the new mandated regulations, often requiring last-minute changes to the budget or a reallocation of resources. While LDEQ has traditionally been able to depend on federal funding and statutory funding as stable sources of revenue, any significant changes to these two major funding components could result in major challenges to long-range plans.

Attracting and Retaining Quality Employees

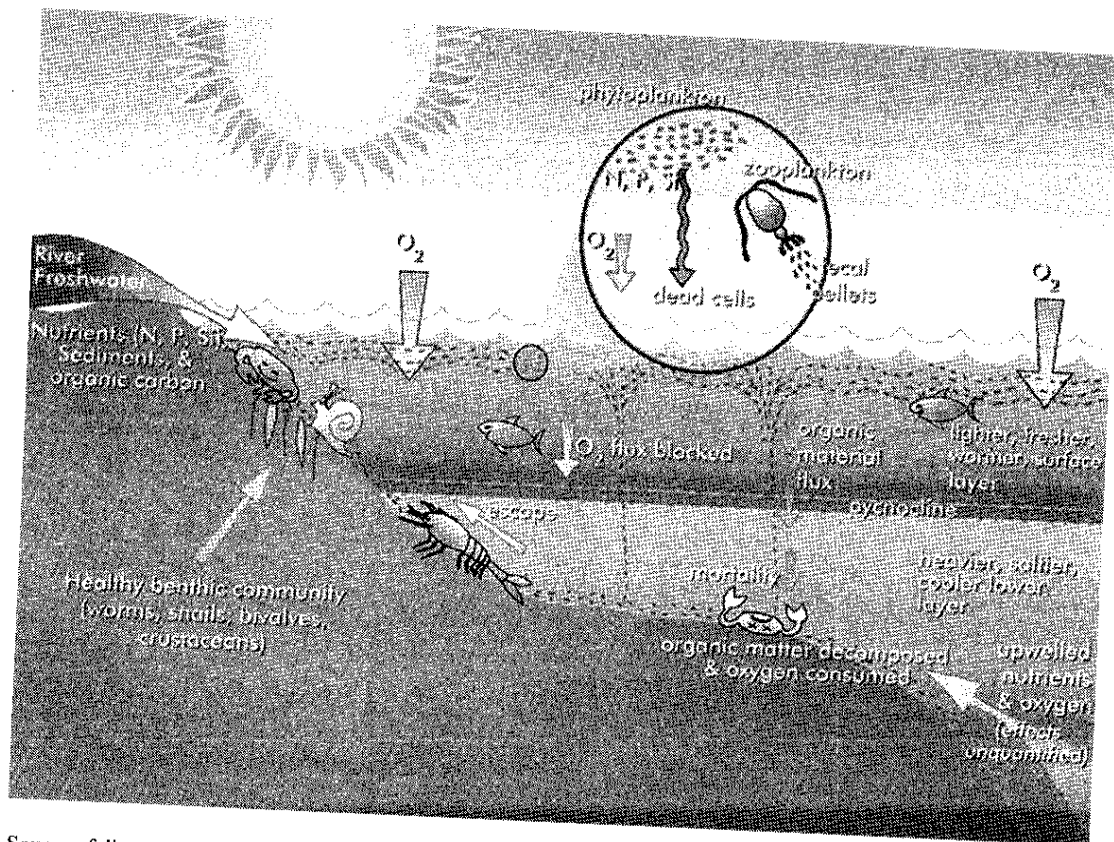
The LDEQ has experienced difficulty in keeping qualified, experienced employees and luring new ones into the public sector. The LDEQ currently employs about 1,000 people among its six regional offices and its headquarters in Baton Rouge. One problem is that there is a growing professional shortage of qualified environmental professionals at the national level as well.

The ability of LDEQ to attract and retain qualified people has always been a challenge. Historically, entry-level staff started their careers at LDEQ, gained three to five years of experience in the public sector, and then took higher-paying jobs in consulting or industry. This pattern is exacerbated by staff losses to other agencies as well as expertise losses due to aging of the workforce. While increased compensation is part of the solution, LDEQ also attracts many dedicated staff through opportunities to make a difference in the environment.

In this context, the average age of LDEQ staff is increasing steadily, creating an urgent need to develop and implement a realistic solution for retaining mid-level talent. Frequent turnover of staff in mid-level positions creates a constant cycle of retraining and represents a major barrier to building consistent, experienced teams. While there are a number of staff at LDEQ who work at the agency through retirement, there are simply not enough of them. Many environmental professionals are now working for LDEQ as a second career. LDEQ has begun to work through its internal human resources office and civil services to develop a workforce development plan, which may help address some of these problems.

The Hypoxic "Dead Zone"

There are continuing concerns about the hypoxic "dead zone" in the Gulf of Mexico. The zone is located along the coasts of Texas and Louisiana where there is normally an abundance of marine life and commercial activity. Hypoxia is the result of adverse affects to marine life when dissolved oxygen in the water reaches a concentration of less than 2 parts per million. When there is little oxygen fish will either leave the area or perish. Hypoxia typically results from excess nutrients infiltrating an area, causing invasive aquatic algae to dominate the water's resources. There are various hypotheses about why there are excess nutrients, including runoff from developed land, soil erosion, changes in the atmosphere, or agricultural fertilizers.



Source of diagram: *Environmental Protection Agency*

The size of the hypoxic zone is monitored each year for any changes in the oxygen level. If hypoxia becomes too severe then it will limit our ability to use the river for coastal restoration purposes. The area also has a significant impact on our commercial and recreational fisheries. If the oxygen levels are too low and marine life is threatened then our fishing industry will not be able to sustain its businesses based on shrimp, crabs, and other seafood. Our recreational industry will also suffer if our outdoorsmen are not able to enjoy the area affected by the zone.

In 1997, the LDEQ and the Governor's office formed a Hypoxia Task Force to design and implement nutrient reduction programs. The five states that have a coastline along the Gulf are also aware of the concerns and have expressed a willingness to make addressing them a priority. An amendment to the FY08 Department of the Interior and Environment Appropriations Act (HR 2643) will channel funds to address the Dead Zone. The Act directs an additional \$1.2 million in funding for the Environmental Protection Agency's "Gulf of Mexico Program." This program provides funding each year in grants to states, universities, and private entities to develop techniques and science needed to restore and protect the Gulf of Mexico. The grants can be used to develop solutions to the Dead Zone (hypoxia) problem in the Gulf, as well as for water quality, public health, nutrient reductions, and coastal restoration.

Coastal Restoration and Climate Change

Perhaps the greatest environmental issue of our time is the threat of a collapsing coastline along Louisiana's southern border. It is widely accepted that south Louisiana is slowly sinking into the Gulf and the destruction of its barrier islands poses a significant threat to hurricane protection. Louisiana loses approximately 10.3 square miles of marsh a year (this loss was as high as 40 square miles per year as recently as the 1980s), representing about eighty percent of the nation's annual coastal wetland loss. If the current rate of loss is not reduced, by mid-century an additional 448,000 acres of wetlands will be lost.

The LDEQ is in a position to help limit further destruction of Louisiana's coastal wetlands and restore our coastal environment. Restoring the coast does not necessarily mean putting it back into its condition of two hundred years ago; what is needed is the rehabilitation of the coast to the extent that it is dynamic and functional. Coastal restoration will demand new science, new engineering, coordinated project design, and a construction industry capable of working on a grand scale. Coping with climate issues can spawn new energy and construction industries, as it already has elsewhere and is beginning to here, while also inspiring a greater degree of confidence that Louisiana is doing all it can to make this a safe place to invest.

Editor's note: Given the significance and complexity of coastal issues in Louisiana, the Governor-Elect has established a dedicated transition advisory council to address related issues. The magnitude of coastal restoration issues will require the attention and coordination of several major state agencies (e.g., LDEQ, DNR, DOTD, DHH, and DWF) as well as a diverse group of other stakeholders.

Air and Water Quality

For many years Louisiana has dealt with challenges related to air quality, which represents a potential threat to our way of life and economic expansion. Air quality challenges often restrict growth opportunities, particularly in areas that do not comply with federal air quality standards. The Air Quality Assessment Division of the LDEQ manages a number of activities in support of the overall air program for the state.

Louisiana has also experienced challenges with water quality and related monitoring efforts. If our citizens cannot rely on the availability of safe drinking water, then that concern will hinder development and progress in the area. To address these concerns, the LDEQ continuously monitors the supply of water available and tests for impurities (e.g., mercury).

Air and water quality improvement has already spawned an environmental service industry while improving conditions for recreation and tourism. This should be

recognized, celebrated and expanded. *Without reliably clean water and air, Louisiana will struggle to attract new opportunities.*

Environmental Awareness and Education

There is often a lack of knowledge among the general public about environmentally important issues. As green technology becomes more mainstream, it becomes increasingly important for Louisiana to promote policies and practices for companies and the average consumer to take part in the change. There needs to be greater awareness and education among the general public of risks and opportunities associated with our state's environmental resources.

Recommendations

Recommendation: Strategically leverage Louisiana's environmental assets in advancing economic development.

With the emerging environmental technologies and increasing economic development competition, Louisiana has to take advantage of the opportunities to lure investment to and within the state by pursuing new economic opportunities related to the environment and by strategically coordinating its environmental management and regulation.

Louisiana needs to focus on removing the obstacles that businesses see when investing here and enhancing the positives.

Recommendation: Design environmental policies and practices to protect the environment and support economic development. Poorly-designed environmental regulatory policies and practices can be barriers to economic growth; well-designed laws can facilitate economic growth while also protecting the environment. Working with legislators and other state leaders, LDEQ should ensure that laws and policies of our state represent well-designed environmental regulation. Furthermore, LDEQ should coordinate with the legislature and other departments to ensure that goals and objectives are clearly understood and practicable.

Act 6 of the 1989 regular session provides an opportunity for the administration to more fully engage in implementing new environmental policy. The act calls for coordinating the Governor's office and intergovernmental relations and has generated some significant successes including the creation of Louisiana's coastal restoration program. However, the authority provided by the act has never been robustly exercised and should be considered as a vehicle for leveraging greater state-wide leadership on environmental issues.

Recommendation: Maintain and enhance a clear, expedient, and predictable environmental permitting process to leverage new investments and expansions. The current LDEQ staff has done a good job in reducing the permit and enforcement backlog, but there are still opportunities for improvement.

LDEQ should ensure a clearly understood and predictable permitting operation. Businesses need to know how long it will take to get a permit to confidently invest in infrastructure and create jobs. LDEQ should be more proactive with companies in completing the process and when problems are presented, they must be handled in a prompt, clear, and professional manner.

Online submittal of permitting would be a significant benefit to many LDEQ customers by decreasing the amount of time and paperwork involved in the permitting process. Furthermore, technology should be leveraged as part of the solution to LDEQ's human

resources challenge. A computerized submittal system would help to identify incomplete applications and ensure that all information required is submitted in a clear format. If there are any problems, LDEQ should ensure that questions are quickly and clearly addressed via phone and e-mail.

Recommendation: Ensure that environmental enforcement efforts are consistent, fair, and predictable. Louisiana should strive to enforce its existing environmental regulations more consistently and predictably, and ensure that penalties are fairly and effectively applied. Furthermore, efforts should be made to identify and implement enforcement in ways that facilitate compliance wherever possible. Strong enforcement efforts results in a cleaner environment for everyone and sends the signal to the public that Louisiana is serious about enforcing our laws and cleaning up our environment.

Recommendation: Immediately assess and address current human resources challenges and concerns at LDEQ. The LDEQ should consider various potential solutions to meet all of its employment needs, including advertising job opportunities through professional organizations and improving coordination with university department and career services. Furthermore, if there are not enough candidates within Louisiana, national recruiting efforts should be considered to attract qualified, experienced candidates to key positions. Successful efforts in other states should be identified and replicated where possible.

The LDEQ has started to address workforce Development since 2005, including recruitment, job fit, retention, re-recruitment of previous employees, and succession planning. Some of the ideas for recruitment were to implement a referral bonus, and starting a student intern program. The retention plan consisted of letting the employees know of the department's desire to promote employees in hopes that they will better see a future at the LDEQ. Finally, the department has tried to get the retirees to work with the newer employees to ensure a smooth transition.

Recommendation: Invest in university research in environmental fields and create incentives for applied research and commercialization efforts.

In addition to maintaining strong relationships with colleges and universities for recruiting environmental professionals, the state should invest in university research with potential environmental applications and leverage these discoveries through applied research and commercialization efforts. Research enterprises have the potential to develop new environmental technologies with economic value, as well as improve approaches to environmental assessment and regulation (e.g., improved data quality). By building strong ties with relevant research enterprises, Louisiana can help get more people involved in the process of addressing environmental challenges and market opportunities and, in turn, refine research programs to ensure greater collaboration with the private and government sector. In particular, Louisiana should continue to drive research through our universities toward the challenges associated with our coast. Within

this context, LDEQ should always base its decisions on sound science, and sound science is better formulated with people working together toward a common goal.

Recommendation: Strengthen environmental education and outreach programs and pursue strong partnership for all stakeholders. Many of the problems we see today are a result of previous generations not being adequately informed of the risks to our environmental resources. If today's young generation understands that they will play a role in the condition of their environment years from now, they will likely treat environmental concerns with greater sensitivity and focus. The state should encourage environmental educational programs in the public and private sector, particularly efforts focused at students in primary and secondary schools. For example, the Dow program in Iberville Parish has been very successful at reaching public school students. These programs should be recognized and enhanced where appropriate to ensure potential partnerships are leveraged and success is maintained.

The state will be well advised to strengthen the environmental education section of LDEQ and ensure that it works with the non-profit sector and the State Department of Education to more effectively reach the critical stakeholders.

Along the same lines, LDEQ should include more education to key customers (e.g., business and industry) and the general public by providing written guidance and training/workshops where necessary to ensure that nuances of regulations are understood, as most environmental regulations are not black and white. Furthermore, LDEQ should ensure that environmental regulations (i.e., laws and policies) and their administration are based on broad stakeholder concerns. Stronger partnerships among key stakeholders will facilitate broad-based input and well-designed environmental policies and practices.

Recommendation: LDEQ, especially the office of the Secretary, simply must recognize the importance and value of communicating openly with the non-business, non-government environmental community. There should be an open dialogue between the leadership of the agency and the social/environmental justice community. An effective LDEQ must be responsive to all stakeholders. The new Secretary should not only have an open door policy to citizen groups, but there should be an effort to seek counsel from these groups. Not only will this result in a more efficient operation for the department, but it will be a clear signal that Louisiana is seriously open for business that serves its needs and is in the best interest of all stakeholders.

Recommendation. We recommend that you consider appointing an Environmental Task Force that will periodically meet with the Secretary and his/her staff to discuss, evaluate, and plan challenges faced by the department. It would be a shame to miss the opportunity to have a formal dialogue with those experts who care deeply for the environmental health of Louisiana. There are so many opportunities, and many speed-bumps along the way. A talented assortment of professionals can make a significant difference in policy direction for this very important state department.

Appendix

- A. Hearing Agenda of the Environment Group of Governor-Elect Jindal's Economic Growth Advisory Council (December 17, 2007)
- B. Hearing Presentations
 - 1. "Collapse and Opportunity: Louisiana's Environment at the Starting Line," Mark Davis, Tulane Institute on Water Resources Law and Policy
 - 2. "Leveraging Louisiana's Environmental Capital for Economic Development," Ron Crum, URS Corporation
 - 3. "Transition: Louisiana Department of Environmental Quality," Darryl Serio (Budget and Finance), Cheryl Nolan (Permitting), Keith Casanova (Remediation), and Peggy Hatch (Enforcement and Surveillance), LDEQ
 - 4. "Recommendations Provided by Louisiana Environmental Action Network," Marylee Orr, LEAN
- C. Submitted Reports, Articles, and Comments
 - 1. Transition Document (October 2007), LDEQ
 - 2. "Stewardship for Promoting Environmental Excellence in Louisiana," Bhaskar Kura
 - 3. "Louisiana Beekeeper: Protecting & Preserving Louisiana's Bounty & Culture," Tracy Kuhns
 - 4. Written Comments (December 5, 2007), Mark Ford
 - 5. Written Comments (December 18, 2007), David Constant
 - 6. Written Comments (December 18, 2007), Sharon Cole
 - 7. Written Comments (December 19, 2007), Steve Levine
 - 8. Written Comments (December 19, 2007), Brad Droy
 - 9. Written Comments (December 19, 2007), Jeff Heaton
 - 10. Written Comments (December 20, 2007), John W. Sutherlin
 - 11. Written Comments (December 20, 2007), Karen Gautreaux, LDEQ
 - 12. Written Comments (December 20, 2007), John W. Sutherlin
 - 13. Written Comments (December 22, 2007), Barbara Dodds